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J-51 Rent Registration Initiative - FAQs

Under HCR's J-51 Rent Registration Initiative, HCR sent notices to owners where records showed that a building received J-51 tax benefits and the owner filed a DHCR building-summary registration with apartments listed as exempt from rent regulation. DHCR's J-51 Rent Registration Initiative has resulted in increased compliance in registration of improperly deregulated apartments and has also generated some common questions.

The following "frequently asked questions" and the responses relate only to DHCR's J-51 Rent Registration Initiative. They are not a comprehensive guide with respect to rent regulation in light of J-51 benefits and in no way alter tenants' or owners' rights and obligations under the law.

1) Who must register under the J-51 Rent Registration Initiative?

Under the J-51 Rent Registration Initiative, owners of real property currently receiving J-51 benefits, who have treated tenants as deregulated or who listed apartments as exempt based on high-rent vacancy, must re-register those apartments in the 2016 registration cycle, commencing April 1, 2016, and provide each tenant with a stabilized lease renewal offer, as required by the Rent Stabilization Code, prior to the expiration of his or her current lease. Additionally, with respect to buildings where J-51 benefits have expired, if the tenant at the time J-51 benefits expired (or their legal successor) remains as the present tenant, those owners who have treated tenants as deregulated or who listed apartments as deregulated based on high-rent vacancy, must re-register those apartments and provide those tenants with a stabilized lease renewal offer prior to the expiration of the current lease.

2) With respect to the J-51 Rent Registration Initiative, what if the owner believes that DHCR records were mistaken and that J-51 tax benefits were never received?

The owner should submit a letter to DHCR and attach a copy of the J-51 Rent Registration Initiative notice they received, along with any supporting documentation. Owners should keep a copy of the submission and supporting documentation, in the event they are asked to supply it in response to a tenant application or complaint, or for review by DHCR in any instance.

3) With respect to the J-51 Rent Registration Initiative, what if the owner no longer receives J-51 tax benefits for the subject building?

As stated above, under the J-51 Rent Registration Initiative, if the tenant in place at the time the J-51 benefits expired, or their legal successor, remains the current tenant, then the owners whose J-51 benefits have expired, who have treated tenants as deregulated or listed apartments as deregulated based on high-rent vacancy, must re-register those apartments. Owners must also provide those tenants with a stabilized lease renewal offer prior to the expiration of the current lease. There may be other instances that require continued rent stabilization coverage, but they are not part of this initiative. This initiative does not modify any conditions to deregulate such as inclusion of requisite notices in leases for buildings subject to rent stabilization solely due to receipt of J-51 benefits.

4) With respect to the J-51 Rent Registration Initiative, what if the owner is currently receiving J-51 tax benefits for the subject building?

As stated above, under the J-51 Rent Registration Initiative, owners of real property currently receiving J-51 benefits, who have treated tenants as deregulated or who listed apartments as deregulated based on high-rent vacancy, must re-register those apartments and provide each tenant with a stabilized lease renewal offer prior to the expiration of his or her current lease.

5) With respect to the J-51 Rent Registration Initiative, what if the subject building had been converted to cooperative or condominium status?

Under this HCR J-51 Rent Registration Initiative, if the subject apartment became vacant after the coop or condo plan was declared effective, then, because the apartment became exempt from rent stabilization for a reason other than high-rent vacancy, the owner is not required to re-register that apartment.

6) Under the J-51 Rent Registration Initiative, are owners required to file registrations for previous years?

Under the J-51 Rent Registration Initiative, owners are not currently being directed to file amended registrations for the prior registrations that indicated the deregulation event, nor are they being directed to amend the 2015 registration. Owners are also not being directed to file late registrations for missing years subsequent to the registration that indicated deregulation event. Nevertheless, late registrations for missing years will be accepted by DHCR if they are submitted along with a copy of the J-51 Rent Registration notice that was received and an explanatory cover letter.

7) Under the J-51 Rent Registration Initiative, may owners file amended registrations for previous years?

As registrations reflect the actual treatment of the unit and the rent charged for the relevant period, DHCR will not be accepting amended registrations as part of this initiative, unless part of an order or directive issued by DHCR, the courts or another governmental agency that supervises housing accommodations. Such order or directive must include a complete rental history review by the issuing entity and a directive to refund any overcharges. In calculating rent under this re-registration initiative, no additional penalties will be imposed by DHCR for not

amending past registrations. In cases where landlords do not take advantage of this re-registration opportunity, DHCR may pursue additional penalties.

8) With respect to the J-51 Rent Registration Initiative, what if an owner is uncertain about their building's J-51 tax benefit status?

Owners who are uncertain about the current status of a J-51 tax abatement at the subject building can go to NYC.Gov to determine if the J-51 tax benefit is currently in effect and to determine when a previously expired benefit began and ended.

Owners can obtain their building's block and lot number at <http://webapps.nyc.gov:8084/cics/fin2/find001i> and then can inquire about the J-51 tax benefit status with regard to their building at: <http://webapps.nyc.gov:8084/cics/cwba/dfhwbtta/abhq>.

9) With respect to the J-51 Rent Registration Initiative, are these units required to be rent regulated in perpetuity? Must owners register annually?

The units should be registered as long as they receive J-51 benefits and until the first vacancy that occurs after the expiration of the J-51 tax benefits.

If the building would not otherwise be subject to the Rent Stabilization Law but for the receipt of J-51 benefits, the owner must continue to register until the tenant in occupancy at the end of the benefit period vacates.

The expiration of the J-51 tax benefit period does not affect the status of apartments, which by other law, remain under rent regulation.

General information about tax benefits, their expiration and the impact upon rent stabilization can be found in DHCR Fact Sheet #41. <http://www.nyshcr.org/Rent/FactSheets/orafac41.pdf>

10) With respect to an apartment to be re-registered under the J-51 Rent Registration Initiative, how does an owner calculate the legal rent to be registered for the subject apartment?

A: The law in this area is continuing to evolve. At this time, for the purpose of this initiative, our guidance is that an owner may calculate and register rent on a stabilized apartment that was improperly deregulated while subject to J-51 by:

- a) *Identifying the rent stated in the most recent stabilized lease prior to the improper deregulation; then,*
- b) *Identifying and adding to the rent, all subsequent vacancy and renewal leases and applying the appropriate statutory vacancy/longevity adjustments and guideline increases set by the New York City Rent Guidelines Board that were in effect at that time, as well as adding any other lawful and documented rent increases for Individual Apartment*

Improvements (IAs) and/or Major Capital Improvement (MCI) rent increases. In calculating rent under this re-registration initiative, no additional penalties will be imposed by DHCR for not amending past registrations.

- c) If the rent resulting from these calculations is less than the rent being charged to the current tenant, the rent being charged should be adjusted to the calculated rent and registered. Appropriate refunds or credits should be given to the tenant for overpayments made in the past four years.
- d) If the rent resulting from these calculations is more than the rent actually charged to the current tenant, the rent actually charged should be registered.

The legal regulated rent to be registered cannot exceed the actual rent being paid by the tenant.

Unrelated to this initiative, as always, in cases where an independent fraudulent scheme to deregulate or willful overcharges exist, greater penalties may be imposed.

Owners are advised to retain all records and calculations used in arriving at the recalculation of the rent and rent overpayments.

11) When should an owner offer a DHCR renewal lease to the tenant?

The DHCR renewal lease should be offered at least 90 days and not more than 150 days before the expiration of the lease currently in effect. Depending on the specific apartment situation, this may occur before or after the upcoming 2016 registration cycle.

12) What does this mean for tenants?

For many tenants, this means that they will be immediately eligible for the protections afforded by rent regulation. They will be eligible for lease renewals on the DHCR promulgated Lease Renewal Form with an accompanying Rider that summarized their rights. Rent increases will be limited to the guideline increases approved by the NYC Rent Guidelines Board. Some tenants may be eligible for a recalculation of their rent, resulting in a reduction of the rent they pay.

13) Who do I contact at DHCR to discuss the J-51 notice that I received?

It is recommended that you raise your concerns in an email and submit it to rentinfo@nyshcr.org.

14) What steps can a tenant take to learn more about their rights under rent stabilization?

Tenants who would like to find out if their apartment has been unlawfully deregulated and/or are being deprived of the other rights enjoyed by rent stabilized tenants such as renewal leases or unlawful reductions in services can contact ORA at rentinfo@nyshcr.org or call 718-739-6400 or visit a Borough Rent Office, <http://www.nyshcr.org/AboutUs/ContactUs.htm#rent-admin> to request printed information on their rights and relevant complaint forms.